

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

DONNA CURLING, et al.

Plaintiffs
vs.
CIVIL ACTION FILE
NO. 1:17-CV-2989-AT

BRAD RAFFENSPERGER, et al.

Defendants

VIDEOTAPED ZOOM DEPOSITION OF
REBECCA NASH SULLIVAN, ESQ.

November 5, 2021
2:03 P.M.

Lee Ann Barnes, CCR-1852B, RPR, CRR, CRC

1 APPEARANCES OF COUNSEL

2 (All appearances via Zoom)

3

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3 On behalf of Defendants Fulton County Voter
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8 ALSO PRESENT:

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10 Bryan Robinson, Videographer
11 Marilyn Marks, Coalition for Good Governance

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1 INDEX OF EXAMINATION

2 WITNESS: REBECCA SULLIVAN, ESQ.

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Exhibit

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Exhibit 1

2/28/2020 Meeting Minutes of
the State Election Board, No
Bates Numbers

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Exhibit 2

Transcript from the State
Election Board Hearing on
January 22, 2020, Bates Nos.
STATE-DEFENDANTS-00156152
through -6241

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10 (Exhibits attached to transcript.)

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3 (Reporter disclosure made pursuant to
4 Article 8.B of the Rules and Regulations of the
5 Board of Court Reporting of the Judicial
6 Council of Georgia.)

7 VIDEOGRAPHER: We are on the record. The
8 time is 2:03 p.m. on -- on November 5, 2021,
9 and this is the beginning of the video
10 deposition for Rebecca Sullivan.

11 Would counsel present please identify
12 themselves for the record.

13 MS. ELSON: This is Hannah Elson. I'm
14 here representing Curling plaintiffs, from
15 Morrison & Foerster. I'm joined by my
16 colleague Veronica Ascarrunz also from
17 Morrison & Foerster.

18 MR. MILLER: This is Carey Miller here on
19 behalf of the State defendants. We'll be
20 defending this deposition on behalf of my
21 client State Election Board member Rebecca
22 Sullivan. I don't believe we have any others
23 in the room at the moment from our side.

24 MS. ROWAN: This is Nancy Rowan from the
25 Office of the County Attorney here on behalf of

1 Fulton County board of -- of registration and
2 election and Richard Barron.

3 MS. MARKS: This is Marilyn Marks, client
4 rep- -- excuse me, plaintiff representative
5 Collation for Good Governance.

6 VIDEOGRAPHER: Thank you. Will the court
7 reporter please swear in the witness.

8 REBECCA SULLIVAN, ESQ., having been first duly
9 sworn, was examined and testified as follows:

10 EXAMINATION

11 BY-MS. ELSION:

12 Q. Well, thanks for being here today,
13 Ms. Sullivan.

14 Would you mind stating your full name and
15 address for the record?

16 A. Rebecca Nash Sullivan, 2560 Blake Lane
17 Snellville, Georgia, 30078. That is my home
18 address.

19 VIDEOGRAPHER: I'm sorry. Her audio is
20 pretty low.

21 COURT REPORTER: It is, yes.

22 MR. MILLER: Okay. Give me just one
23 second. I think I'll try and adjust the mic.

24 VIDEOGRAPHER: Hannah, do you want to go
25 off record?

1 MS. ELSON: Sure. That's fine with me.

2 VIDEOGRAPHER: Let's do that. Off record
3 at 2:05.

4 (Off the record.)

5 VIDEOGRAPHER: We're back on the record at
6 2:07.

7 BY MS. ELSON:

8 Q. All right. So today -- do you --

9 MS. ELSON: Does anyone hear an echo?

10 Okay.

11 BY MS. ELSON::

12 Q. Today I will be asking you a series of
13 questions about this litigation.

14 Before we do that, do you understand that
15 you're under oath today?

16 A. I do.

17 Q. And that oath means that you understand
18 your answers today will be the truth?

19 A. Yes.

20 Q. If you answer a question, I'm going to
21 assume you understood the question.

22 Is that okay with you?

23 A. Yes.

24 Q. Is there any reason why you would be
25 unable to give full and complete testimony today?

1 A. No.

2 Q. And I just want to note that we should try
3 and not talk over each other because if we're both
4 talking at the same time, the court reporter can't
5 take down a clean record.

6 Does that make sense?

7 A. Understood.

8 Q. All right. And because we're in this
9 remote environment, do you have any windows open on
10 your computer besides this Zoom window and the
11 Exhibit Share?

12 A. No.

13 Q. And can I confirm that during the course
14 of the deposition today, you will not open any
15 additional windows besides those?

16 A. Yes, you can confirm that. I will not.

17 Q. Okay. If you need a break at any point,
18 just let me or Carey know. I just ask that you
19 answer any questions pending before taking the
20 break.

21 A. Sure.

22 Q. All right. Where did you go to college?

23 A. The University of Georgia.

24 Q. And what did you get a degree in?

25 A. Political science.

1 Q. And you went to law school; correct?

2 A. I did.

3 Q. And you received a JD?

4 A. Yes.

5 Q. What is your current employment?

6 A. I am general counsel and assistant
7 commissioner of the Georgia Department of
8 Administrative Services.

9 Q. Okay. How long have you been in that
10 position for?

11 A. A little over seven years.

12 Q. Do you deal with elections in that
13 capacity?

14 A. No, I do not.

15 Q. And where were you working before the
16 assistant -- the Georgia Department of
17 Administrative Services?

18 A. The Political Law Group was the name of
19 the firm at the time.

20 Q. Have you ever been involved, besides the
21 State Election Board, in any other organizations
22 that deal with elections?

23 A. Not that I'm aware of. Is there any
24 specific organization you're talk- -- asking me
25 about?

1 Q. No --

2 A. Okay.

3 Q. -- not that I know of.

4 Have you previously been deposed?

5 A. Yes.

6 Q. In what cases?

7 A. Fair Fight versus Raffensperger.

8 Q. Any other cases?

9 A. No.

10 Q. What did you do to prepare for the
11 deposition today?

12 A. I met with counsel and reviewed some of
13 our State Election Board rules.

14 Q. Did you review documents besides those
15 State Election Board rules?

16 A. Just materials provided by counsel.

17 Q. Did you collect documents to produce in
18 this case?

19 A. I did.

20 Q. And where did you look for those
21 documents?

22 A. On the email address that I use for the
23 State Election Board.

24 Q. And what did you look for?

25 A. I looked for -- reviewed my email. I

1 looked for any emails that might be respon- --
2 relevant to issues in this case.

3 Q. Okay. Have you seen the most recent
4 complaint in this case? And that's titled the
5 "Third Amend- -- "The Third Amended Complaint."

6 A. I don't recall seeing that.

7 Q. What to your understanding is this
8 litigation about?

9 A. It's about the use of ballot marking
10 devices for Georgia elections.

11 Q. Has this case been discussed by the
12 State Election Board?

13 A. It has likely been discussed in executive
14 session --

15 Q. Do you recall what --

16 A. -- for -- for litigation updates by our
17 counsel.

18 Q. Okay. And that would be Ryan Germany?

19 A. Ryan Germany would be included as well as
20 the counsel -- outside counsel that represent us.

21 Q. I understand.

22 Have you personally discussed this case
23 with anyone?

24 A. I don't believe so, outside our counsel.

25 Q. I didn't ask you this when you mentioned

1 the Fair Fight deposition before.

2 Were you deposed in that case in your
3 capacity as a State Election Board member?

4 A. Yes.

5 Q. Okay. You are currently a member of the
6 State Election Board; right?

7 A. Correct.

8 Q. When did you join the
9 State Election Board?

10 A. I believe I was appointed in July of --
11 July-ish 2013.

12 Q. And how were you appointed?

13 A. I was appointed by the Speaker of the
14 Georgia House of Representatives.

15 Q. And why did you join?

16 A. I think it would be a good opportunity for
17 public service.

18 Q. What was your familiar- -- what was your
19 familiarity with Georgia elections prior to serving
20 as a State Election Board member?

21 A. As a citizen, I'm generally familiar with
22 elections. I had some experience when I was in the
23 governor's office regarding legislation that was
24 passed regarding voting rights, regarding voter IDs
25 and, you know, just general knowledge of elections

1 through research.

2 Q. And was that position in the governor's
3 office before your work with the Political Law
4 Group?

5 A. Yes.

6 Q. What position did you hold there?

7 A. I held three different positions: Policy
8 advisor, deputy executive counsel, and then
9 executive counsel.

10 Q. What are the responsibilities of the
11 State Election Board?

12 A. They're set forth in statute. There's a
13 list of responsibilities, but generally to pass
14 rules and regulations regarding the conduct of
15 elections to ensure that they are fair and uniform,
16 as well as to hear alleged violations of the
17 election law or election rules and to determine
18 whether or not there's probable cause that a
19 violation has occurred.

20 Q. What types of potential violations does
21 SEB hear about?

22 A. Any violation of the election law or
23 election rules that we've passed.

24 Q. Do you -- let me start over.

25 Do you yourself have any particular

1 responsibilities in your position on the
2 State Election Board?

3 A. I am the vice chair of the
4 State Election Board, so I do preside over meetings
5 when there is not a chair.

6 Q. Are you a member of any working groups or
7 commissions on the SEB?

8 A. I am not.

9 Q. Are you familiar with Georgia's current
10 ballot marking devices?

11 A. I am.

12 Q. Are you okay if I call those BMDs during
13 today's deposition?

14 A. I am.

15 Q. Are you familiar with Georgia's previous
16 election system?

17 A. Excuse me. Yes.

18 Q. Do you understand why Georgia switched
19 from that previous election system to BMDs?

20 A. Well, the general assembly passed a law
21 requiring the switch.

22 Q. Do you understand why that law was passed?

23 A. It's my understanding that to replace
24 aging technology at the time.

25 Q. Did the State Election Board have a role

1 in choosing the election system that Georgia
2 currently uses?

3 A. It did not.

4 Q. Do you have any concerns with the election
5 system that Georgia currently uses?

6 A. I do not.

7 Q. Do you know whether any other states rely
8 on BMDs for their elections?

9 A. I believe that other states do.

10 Q. Within the State Election Board, do you
11 discuss best practices as they concern to election
12 systems?

13 MR. MILLER: Object to form.

14 You can answer.

15 THE WITNESS: Best practices regarding
16 various election systems? Is that your
17 question?

18 BY MS. ELSON:

19 Q. (Nodded head.)

20 A. No, we do not discuss that. It is not the
21 State Election Board's role to select the election
22 system.

23 Q. And whose role is it to select the
24 election system in Georgia?

25 A. In this case, the general assembly passed

1 a law that required -- that required the type of
2 election system to be used.

3 Q. Does the State Election Board ever hear
4 testimony regarding the choice of Georgia's election
5 system?

6 A. I don't recall ever hearing testimony
7 regarding that.

8 Q. All right. As a member of the
9 State Election Board, do you care about the security
10 of elections in Georgia?

11 MR. MILLER: Object to form.

12 THE WITNESS: Of course.

13 BY MS. ELSON:

14 Q. Is it important to you to know that the
15 election system being used is not hackable by
16 outside actors?

17 MR. MILLER: Object to form.

18 THE WITNESS: It is important for me to
19 know that the election system that is used is
20 safe and secure.

21 BY MS. ELSON:

22 Q. And what do you mean by "safe and secure"?

23 A. That it is protected as -- from -- kept
24 secure and not accessed by others and that there are
25 protocols in place to make sure that it is a secure

1 and safe system.

2 Q. Have you heard any complaints about
3 Georgia's current election system being hackable?

4 A. General complaints, yes.

5 Q. And what have those complaints been?

6 A. I think that there are complaints in this
7 case regarding that, speculate -- spec --
8 speculative concerns that the system could be
9 hacked.

10 Q. Have you heard complaints from other
11 individuals besides the plaintiffs in this
12 litigation?

13 A. Yes. We have received complaints through
14 public comment at the State Election Board, through
15 emails that were sent to me by members of the
16 public. And I've certainly been aware of news media
17 reports.

18 Q. When does the State Election Board solicit
19 public comment?

20 A. We generally have public comment -- we
21 solicit public comment through -- for every meeting.
22 There is an email address that is supplied on our
23 agenda to give public comment. Over the years, we
24 have had portions of public comment in our public
25 meetings where members of the public are allowed to

1 come and speak.

2 Q. Did you collect and produce those emails
3 that you've received --

4 A. I did.

5 Q. -- in public comments?

6 And just to confirm, you have not heard
7 any live testimony from voters to the SEB about
8 concerns with the BMD system?

9 A. I would say that there have been concerns
10 expressed through public comment.

11 Q. Okay. But not through live testimony?

12 A. I don't know what you mean by "live
13 testimony."

14 Q. Do voters in Georgia ever appear at SEB
15 hearings and give testimony?

16 A. Like, are they -- they will come and speak
17 in public comment. The members of the public are
18 not sworn in during State Election Board meetings,
19 so I don't know exactly what you mean by "give
20 testimony."

21 Q. I see. I think I was considering that
22 public comment and the live speaking were two
23 different things, but it sounds like you're saying
24 that you consider those to be the same thing.

25 A. When someone stands up and speaks to the

1 board in a public comment -- in the time in the
2 agenda that's allotted for public comment is what
3 I'm speaking about. I'm sorry if that's not clear.

4 Q. No, it's very clear. I think I
5 misunderstood, so thanks for clarifying.

6 Would you support the use of an election
7 system that could be hacked in a few minutes by a
8 voter in the voting booth?

9 MR. MILLER: Objection. Calls for
10 speculation. And form.

11 You can answer.

12 THE WITNESS: I support secure election
13 systems.

14 BY MS. ELSON:

15 Q. Would you support the use of an election
16 system that could be hacked in a few minutes by a
17 voter in the voter booth?

18 MR. MILLER: Same objection.

19 THE WITNESS: I believe that was the same
20 question. I think that it is important to have
21 measures and control -- measures in place and
22 make sure that the security of these devices,
23 you know, can be monitored and any
24 opportunities for hacking be minimized.

25

1 BY MS. ELSON:

2 Q. If you were shown proof that an election
3 system could be hacked by a voter in the voting
4 booth, would you support the use of that system?

5 MR. MILLER: Same objection.

6 THE WITNESS: I think that it is important
7 to have security controls in place regarding
8 any election system. I do not -- would not
9 support a scenario where voting machines were
10 used in such a way that -- and security
11 controls were not in place.

12 BY MS. ELSON:

13 Q. Do you -- let me strike that.

14 Are you familiar with how BMDs work?

15 A. Yes.

16 Q. And can you describe your understanding of
17 how they work?

18 A. I understand -- I can describe my
19 understanding from a user's experience. I do not
20 have technical expertise regarding BMDs.

21 Q. That would be great. Thanks.

22 A. You -- I have voted on the BMD twice. You
23 get a voter access card. You insert it into the
24 machine. You select -- make your voter selections
25 and the BMD machine prints out a paper ballot. You

1 review the paper ballot and scan the paper ballot,
2 and that is generally the process.

3 Q. And where do you get the voter access card
4 from?

5 A. From -- this is a live voting. From when
6 you go through the steps when you arrive to vote.
7 From the poll workers.

8 Q. What company manufactures the BMDs in use
9 in Georgia?

10 A. It's my understanding they are -- Dominion
11 is the name of the company.

12 Q. Has the State Election Board interacted at
13 all with Dominion?

14 A. I believe that we may have had one meeting
15 where someone from Dominion came and spoke about the
16 machines, the security of the machines, but that
17 would be reflected in the minutes of the board
18 meetings.

19 Q. Have you ever, aside from the two times
20 you voted on one, inspected a BMD before?

21 A. I have observed one, yes. But inspected,
22 no.

23 Q. When did you observe the BMD?

24 A. I believe that there were some available
25 in the Secretary of State's office prior -- after

1 the -- the contract was awarded but prior to going
2 into use, for County election officials and others
3 to observe.

4 Q. And you mentioned earlier that Dominion
5 came and spoke about the security of the machines at
6 a State Election Board meeting.

7 Why did they come and speak about
8 security?

9 A. Because there were concerns raised by
10 members of the public. Speculative concerns. I
11 believe, I -- I'm not positive about this, but I
12 believe that a representative came after one of the
13 elections to speak generally on the topic in the
14 public meeting.

15 Q. Do you recall --

16 A. So anything he said would be reflected in
17 the minutes or the transcription of those meetings.

18 Q. Okay. Do you know how BMDs are updated?

19 A. I do not have any technical expertise
20 regarding how BMDs are updated.

21 Q. Have you discussed with the
22 State Election Board how BMDs are updated?

23 A. I do not recall any specific discussions
24 about that.

25 Q. So the State Election Board has not

1 promulgated any rules about how the machines should
2 be updated?

3 A. I didn't say that, but I don't recall a
4 specific rule regarding updating of BMDs. I'm sure
5 that that topic may be addressed within one of the
6 rules, but I'm not aware of a rule on that specific
7 topic.

8 Q. Okay. Do you know who is responsible for
9 updating the BMD machines?

10 A. I do not.

11 Q. Are you aware that removable media such as
12 memory cards or USB sticks can be inserted into BMD
13 machines?

14 A. I don't have any tech- -- technical
15 expertise regarding BMD machines.

16 Q. Is removable media in BMD machines
17 something that the State Election Board has ever
18 discussed?

19 A. We do not discuss the technical aspects of
20 the BMD machines.

21 Q. And why is that?

22 A. Because we are not responsible for the
23 technical aspects of the BMD machines.

24 Q. And who is responsible for the technical
25 aspects of the BMD machines?

1 MR. MILLER: Objection. Calls for a legal
2 conclusion.

3 THE WITNESS: I believe that the election
4 superintendents work with the Secretary of
5 State for -- regarding the use of the ballot
6 marketing devices.

7 BY MS. ELSON:

8 Q. Would you agree that the choice of
9 machines used might have an affect on whether
10 elections in Georgia are fair and secure?

11 MR. MILLER: Object to form.

12 THE WITNESS: I don't have any reason to
13 believe that the -- that could be true.

14 BY MS. ELSON:

15 Q. So when voters voted -- let me strike
16 that.

17 When voters vote on the BMDs, they're
18 provided with a paper printout; correct?

19 A. That is correct.

20 Q. And that printout shows both human text --
21 human readable text and a QR code?

22 A. Yes, that is correct.

23 Q. When votes are tabulated that were cast on
24 BMDs, are they tabulated using the QR codes or the
25 human readable text?

1 A. It's my understanding they're calculated
2 based on QR code.

3 Q. Has the State Election Board ever
4 discussed rules concerning which part of the vote
5 will be tabulated?

6 A. We do have a rule regarding the definition
7 of a vote.

8 Q. Were you a member of the
9 State Election Board when that rule was proposed and
10 voted on?

11 A. I was.

12 Q. Did the State Election Board receive any
13 briefing or information to assist them in making an
14 informed decision about that rule?

15 A. We would be provided advice and guidance,
16 recommendations by the Secretary of State's office
17 and their staff.

18 Q. Have you heard any public comment from
19 voters that they are unable to verify their votes
20 using Georgia's current election system?

21 MR. MILLER: Object to form.

22 THE WITNESS: I have heard voter -- I have
23 heard members of the public express concern
24 that the QR code -- about the QR code, yes.

25

1 BY MS. ELSON:

2 Q. And can you describe those concerns?

3 A. That generally they're afraid that the QR
4 code does not reflect the printed text.

5 Q. Were you concerned when you heard comments
6 about that topic?

7 A. I have not been presented any evidence
8 that a QR code does not reflect the printed text.

9 Q. Have you been presented with any evidence
10 that the QR code does reflect the text?

11 A. Yes. I would say based on recounts of
12 votes, I think that -- of the risk-limiting audit
13 says that the votes are accurate.

14 COURT REPORTER: I'm sorry. I didn't hear
15 you. You said he risk something audit are
16 accurate.

17 THE WITNESS: Risk-limiting audit.

18 COURT REPORTER: Risk remitting. Thank
19 you.

20 THE WITNESS: Limiting. Limiting, not
21 remitting.

22 COURT REPORTER: Limiting. Thank you.

23 BY MS. ELSON:

24 Q. I definitely will have some follow-up
25 questions about audits in a moment.

1 To your knowledge, does the Secretary of
2 State's office commission studies regarding election
3 systems?

4 A. I don't know if the State -- the
5 State Election Board or Secretary of State's office?

6 Q. My question was about the Secretary of
7 State's office.

8 A. I don't have knowledge about studies that
9 are commissioned by the Secretary of State's office.

10 Q. Okay. Are you aware that one study
11 commissioned by the Secretary of State's office
12 found that over half of voters reviewed their ballot
13 less than a second or not at all?

14 MR. MILLER: Object to form.

15 THE WITNESS: I'm not aware of that
16 specific study, no.

17 BY MS. ELSON:

18 Q. Are you --

19 A. I do not know -- I -- I will add that we
20 have put in place rules that poll workers must
21 remind voters to review their paper ballots now.

22 Q. And when you voted on a BMD, did you find
23 in practice that poll workers remind voters to
24 review their ballot?

25 A. Yes.

1 Q. Does it concern you to know that a study
2 found that over half of their voters review their
3 ballot very cursorily?

4 MR. MILLER: Object to form.

5 THE WITNESS: I hope the voters, when
6 presented with a paper ballot and are told to
7 review their ballot, will review their ballot.
8 They have responsibility for reviewing their
9 ballot.

10 BY MS. ELSON:

11 Q. We talked a bit about this before, but are
12 voters in Georgia able to verify that their
13 individual ballot reflects their preferred
14 selections when voting using a BMD?

15 MR. MILLER: Object to form. Calls for
16 speculation.

17 THE WITNESS: They're able to review
18 their -- the printed text of their ballot.

19 BY MS. ELSON:

20 Q. Just to confirm, is the printed text
21 what's tabulated when votes are counted?

22 MR. MILLER: Objection. Asked and
23 answered.

24 THE WITNESS: The QR code is what is
25 counted in the ballot scanner, is my

1 understanding.

2 BY MS. ELSON:

3 Q. And can humans read QR codes?

4 A. They cannot, at least to the best of my
5 knowledge.

6 Q. Have you ever discussed voter verification
7 regarding BMDs with members on the
8 State Election Board?

9 MR. MILLER: Object to form.

10 THE WITNESS: I don't recall any specific
11 conversations.

12 BY MS. ELSON:

13 Q. So you mentioned earlier that you believe
14 the audits are able to prove that the QR code
15 accurately reflects what is on the human readable
16 portion of a ballot.

17 Are audits important to verifying election
18 results?

19 A. I think -- I think that they are a
20 safeguard, yes.

21 Q. And what makes them important or a
22 safeguard?

23 MR. MILLER: Object to form.

24 THE WITNESS: Because the risk-limiting
25 audit is able to -- to give some security that

1 the vote outcome is what was -- that the
2 hand-marked paper ballots are the same as the
3 vote that was tabulated on the ballot scanner.

4 BY MS. ELSON:

5 Q. And what is a risk-limiting audit?

6 A. They -- the law provides for a specific
7 audit framework to be done regarding ballot scanning
8 devices on a periodic basis, and there are also
9 provisions in the State Election Board regarding
10 that -- State Election Board rules regarding a
11 risk-limiting audit. My understanding is it's an
12 audit based on a statistical number of ballots to --
13 of a hand recount.

14 Q. You mentioned those audits are required
15 periodically.

16 Do you know how often those audits are
17 conducted?

18 A. I can't recall specifically, but I believe
19 it is addressed in the law.

20 Q. When do you believe that audits should be
21 required?

22 MR. MILLER: Objection. Lack of
23 foundation.

24 THE WITNESS: I don't have a personal
25 opinion on how often they should be required.

1 BY MS. ELSON:

2 Q. Does Georgia use any other type of audit
3 besides the RLA audit you just mentioned?

4 A. Not that I can specifically think of.

5 Q. Does the State Election Board play a role
6 in deciding when an audit should take place in
7 Georgia?

8 A. I do not believe we have a role in that
9 process.

10 Q. Does the State Election Board have a role
11 in deciding what types of audits should occur?

12 A. I do not believe so.

13 Q. Are audit results ever shared with the
14 State Election Board?

15 A. Specifically with the
16 State Election Board, I have not had that
17 experience.

18 Q. Have audits ever come up at
19 State Election Board meetings?

20 A. We have passed a rule regarding audits.

21 Q. Do you discuss audits with the Secretary
22 of State's office?

23 A. I don't recall any specific discussions
24 with the Secretary of State's office regarding that
25 topic.

1 Q. You mentioned an RLA audit.

2 Can you explain step by step how that
3 works?

4 MR. MILLER: Objection. Lack of
5 foundation. Ms. Sullivan is not testifying as
6 an expert.

7 THE WITNESS: No, I cannot.

8 BY MS. ELSON:

9 Q. What do you understand the difference to
10 be between an audit and a recount under Georgia law?

11 MR. MILLER: Objection. Calls for a legal
12 conclusion.

13 THE WITNESS: My understanding is that a
14 recount is something that a candidate is
15 entitled to request if there is a certain
16 percentage difference between the votes, and
17 that recount is conducted under rule by
18 scanning versus a risk-limiting audit which is
19 a manual hand recount and is something that is
20 set forth in the law to be required on a
21 periodic basis.

22 BY MS. ELSON:

23 Q. So a risk-limiting audit is conducted by
24 hand?

25 A. That is my understanding.

1 Q. And what exactly is tabulated by hand
2 during a risk-limiting audit?

3 A. The votes.

4 Q. Given that in this case there are two
5 pieces of the printed paper, can you be more
6 specific when you say "the vote"?

7 A. I'm sorry. I didn't understand your
8 question about two pieces of paper.

9 Q. Yeah. That was -- I misspoke.

10 Given in this case that there are two
11 pieces of information on each ballot, a portion of
12 text and a QR code, can you detail what you mean by
13 "the vote"?

14 A. In a risk-limiting audit, they're counting
15 the printed text is my understanding.

16 Q. Okay. Does the risk-limiting audit ever
17 compare the printed text on a ballot to the QR code
18 on that same ballot?

19 A. I am not an expert on risk-limiting
20 audits.

21 Q. So as a State Election Board member, you
22 don't know whether during a risk-limiting audit, the
23 printed text on the ballot is compared to the QR
24 code on that ballot?

25 MR. MILLER: Object to form.

4 BY MS. ELSON:

5 Q. During a risk-limiting audit -- strike
6 that.

7 If a QR code was changed from what the
8 voter selected, would a risk-limiting audit be able
9 to pick up on that change?

10 MR. MILLER: Objection. Calls for
11 speculation.

12 THE WITNESS: I'm sorry. Could you
13 rephrase your question?

14 BY MS. ELSON:

15 Q. If somehow a QR code reflected something
16 differently than the human readable portion of a
17 voter's ballot, would a risk-limiting audit be able
18 to detect that discrepancy?

19 MR. MILLER: Same objection.

24 BY MS. ELSON:

25 Q. Do you think it's important that each

1 voter's vote is counted when they cast a ballot in
2 the Georgia election?

3 MR. MILLER: Object to form.

4 THE WITNESS: Yes.

5 BY MS. ELSON:

6 Q. And is there any mechanism available in
7 Georgia for a voter to be sure that their vote is
8 counted as they cast it?

9 A. They can review the printed text on their
10 ballot and be -- I think that can be safe that their
11 vote is counted.

12 Q. And can you say more about what you mean
13 when you say "they can be sure" -- or "they can be
14 safe" -- "it's safe that their vote was counted"?

15 A. We don't have any reason to believe in
16 Georgia that the vote that is -- the printed ballot
17 is not what is count -- the -- the vote as reflected
18 in the printed text does not reflect the vote that
19 was calculated via QR code.

20 Q. And a risk-limiting audit as you've
21 described them to me today does not assess the
22 content of the QR codes; correct?

23 MR. MILLER: Objection. Asked and
24 answered.

25 THE WITNESS: The risk-limiting audit,

1 it's my understanding, reflects the -- is a
2 hand count of the printed text.

3 BY MS. ELSON:

4 Q. What would happen if the results of an
5 audit indicate a different outcome than the one the
6 machines tabulated?

7 MR. MILLER: Objection. Calls for a legal
8 conclusion. Calls for speculation.

9 THE WITNESS: I don't know specifically
10 what would happen in that scenario.

11 BY MS. ELSON:

12 Q. You don't know whether there's any way for
13 that election outcome to be declared invalid or to
14 rerun the election?

15 MR. MILLER: Same objection.

16 THE WITNESS: I believe that it is
17 addressed in the law, but I don't know
18 specifically how -- what happens at that point
19 in the process. I have not seen that occur.

20 BY MS. ELSON:

21 Q. And what do you mean when you say -- well,
22 strike that.

23 We've talked a bit about RLA audits.

24 What is a recount as you understand the
25 term to mean in the context of Georgia elections?

1 MR. MILLER: Objection. Calls for a legal
2 conclusion.

3 THE WITNESS: I think I explained earlier
4 that my understanding of a recount is something
5 that a candidate is entitled to under law if
6 requested if the election contest is a certain
7 percentage difference.

8 BY MS. ELSON:

9 Q. And during those recounts, is it your
10 understanding that the machines do the retabulating?

11 A. That is my understanding, yes.

12 Q. And those machines are tabulating the QR
13 code portion of the voter's ballots?

14 A. Yes.

15 Q. Would you be concerned if you weren't
16 allowed to vote in an election for some reason?

17 MR. MILLER: Object to form.

18 THE WITNESS: If someone were to prevent
19 me from voting? Is that your question? Would
20 I be concerned if someone were to stop me from
21 voting?

22 BY MS. ELSON:

23 Q. If someone or something were to stop you
24 from voting.

25 A. I can't imagine a scenario where I would

1 be stopped from voting if I was lawfully able to
2 vote.

3 Q. If you were not allowed to vote, however,
4 would that concern you?

5 MR. MILLER: Same objection.

6 THE WITNESS: I don't have any, you
7 know, -- I cannot imagine a scenario in which I
8 was not allowed to vote if I was lawfully able
9 to vote.

10 BY MS. ELSON:

11 Q. I'll try and rephrase.

12 If someone were to present to you or if
13 you were to hear about a scenario where someone was
14 prevented from voting in an election to which they
15 were legally otherwise entitled to vote, would that
16 concern you?

17 A. I believe that everyone can -- who is
18 legally entitled to vote should be able to cast a
19 vote.

20 Q. Would you be concerned if you were forced
21 to vote by a mail-in ballot in an election in
22 Georgia?

23 MR. MILLER: Object to form.

24 THE WITNESS: If I were -- I -- I have a
25 hard time spec- -- I mean, you're asking me a

1 very speculative thing. I cannot imagine a
2 situation where I was forced to vote by
3 absentee ballot.

4 BY MS. ELSON:

5 Q. If you found out after an election that
6 your particular vote had not been counted, would you
7 find that concerning?

8 MR. MILLER: Objection. Calls for a legal
9 conclusion. Excuse me. Calls for speculation.

10 THE WITNESS: Would I find it concerning
11 if my vote was not counted?

12 BY MS. ELSON:

13 Q. Yes.

14 A. Yes, I would be concerned if my vote was
15 not counted if it was legally and appropriately
16 voted.

17 Q. All right. And a couple of questions
18 about hand-marked paper ballots.

19 Would you use ballot marking devices that
20 tabulate the human readable portion of the ballot
21 rather than the -- strike that question. I made the
22 same mistake this morning.

23 Would you use scanners that tabulate the
24 human readable portion of the ballot rather than the
25 QR code portion?

1 MR. MILLER: Objection. Calls for
2 speculation and relevance.

6 BY MS. ELSION:

7 Q. Do you think that Georgia's previous
8 election system which utilized DREs was as reliable
9 as the BMD system?

10 MR. MILLER: Objection. Lack of
11 foundation and relevance.

12 THE WITNESS: I don't have any expertise
13 in that matter -- I mean, in that regard.

14 BY MS. ELSON:

15 Q. And would you use hand-marked paper
16 ballots if that was the election system in Georgia?

17 A. I would use the hand-marked paper ballots
18 if that was the election system, yes. If that was
19 the way that votes were required to be cast, I would
20 certainly use a paper-marked ballot.

21 Q. Can hand-marked paper ballots be altered
22 by malware?

23 MR. MILLER: Object to form. Speculation.

24 THE WITNESS: I would think potentially
25 there could be that concern if a -- if a

1 scanner was -- anytime a scanner was involved,
2 but I'm not aware of a situation where
3 hand-marked paper ballots are completely a
4 paper process.

5 BY MS. ELSON:

6 Q. Would you agree that there are a higher
7 number of technical machines in use with the BMD
8 system than there were with the DRE system?

9 A. I have no knowledge of that.

10 Q. Are hand-marked paper ballots more secure
11 than the BMD system?

12 MR. MILLER: Objection. Lack of
13 foundation. Relevance.

14 THE WITNESS: I don't have any expertise
15 regarding that.

16 BY MS. ELSON:

17 Q. Are you aware that a hand-marked paper
18 ballot system costs tens of millions of dollars less
19 to maintain and administer than a BMD system?

20 A. I don't have any expertise regarding the
21 cost of any election management system.

22 Q. Would it concern you to hear that
23 hand-marked paper ballot systems cost much less
24 money than BMD systems?

25 MR. MILLER: Objection. Relevance.

1 THE WITNESS: No, that does not concern
2 me.

3 BY MS. ELSON:

4 Q. And why not?

5 A. I -- I don't have any concern regarding --
6 it is not my concern regarding the cost of an
7 election system.

8 Q. Are you aware of any unauthorized access
9 to any component of Georgia's election system,
10 either the current system or previous systems?

11 MR. MILLER: Object to form.

12 THE WITNESS: I believe that there was
13 some concern regarding unauthorized access
14 involving KSU, but I don't have any specific
15 personal knowledge.

16 BY MS. ELSON:

17 Q. Do you recall -- strike that.

18 Are you aware of Logan Lamb?

19 A. The name sounds familiar, yes.

20 Q. Did the reports you recall hearing about
21 the KSU server concern you when you heard them?

22 MR. MILLER: Objection. Relevance.

23 Misstates testimony.

24 THE WITNESS: Can you ask your question
25 again?

1 BY MS. ELSON:

2 Q. Sure. And I apologize if I misstated
3 something.

4 Did you state earlier that you heard of
5 some unauthorized access to the KSU --

6 A. Or allegations of unauthor- --
7 unauthorized access, yes.

8 Q. Did those allegations concern you?

9 A. I think -- I mean, there's always some
10 concern, yes, if there are allegations of --
11 specific allegations of unauthorized access to the
12 election system.

13 Q. Why would that be concerning to you?

14 MR. MILLER: Objection. Relevance.

15 THE WITNESS: It is important to maintain
16 the security of the election system.

17 BY MS. ELSON:

18 Q. Did the State Election Board do anything
19 in response to those allegations?

20 A. I don't recall that the
21 State Election Board did anything.

22 Q. Did the office of the Secretary of State
23 do anything about those allegations?

24 A. I believe that they did. I believe that
25 there was some movement out of KSU for those

1 functions, but I'm not -- that -- that is just my
2 understanding. I don't have any personal knowledge
3 about this issue.

4 Q. Okay. When the DREs were in place, how
5 often was election security with the DREs discussed
6 at State Election Board meetings?

7 MR. MILLER: Objection. Relevance.

8 THE WITNESS: I don't remember any
9 specific conversations, but just like with the
10 ballot marking devices, there are rules in
11 place regarding the security of the -- those
12 devices.

13 BY MS. ELSON:

14 Q. And are those rules promulgated by the
15 State Election Board?

16 A. There were some rules promulgated by the
17 State Election Board regarding security of the
18 devices, yes.

19 Q. And you're referring to both DREs and
20 BMDs?

21 A. Yes.

22 Q. What information does the
23 State Election Board receive to assist it in
24 assessing proposed rules about security?

25 MR. MILLER: Object to form.

1 THE WITNESS: That's a very general
2 question. Can you ask me a more specific
3 question or rephrase it?

4 BY MS. ELSON:

5 Q. Yeah. When the State Election Board is
6 considering a rule that has to do with, say, the
7 security of BMD machines, does the
8 State Election Board receive any briefing or outside
9 presentations regarding those machines?

10 MR. MILLER: Object to form.

11 THE WITNESS: I don't recall any specific
12 briefings, but we -- recommendations are made
13 by the Secretary of State staff.

14 BY MS. ELSON:

15 Q. Were you aware of any security
16 vulnerabilities associated with the previous DRE
17 machines?

18 MR. MILLER: Objection on form.

19 Relevance.

20 THE WITNESS: I'm not an expert regarding
21 the technical aspects of DREs.

22 BY MS. ELSON:

23 Q. So you're not aware of any
24 vulnerabilities -- oh, sorry. Strike that.

25 Did the State Election Board ever discuss

1 election security in the context of Georgia's change
2 from DREs to BMDs?

3 A. I don't recall any discussions.

4 Q. After the implementation of the BMDs, how
5 often did the State Election Board discuss election
6 security?

7 MR. MILLER: Object to form.

8 THE WITNESS: I don't recall any specific
9 discussions.

10 BY MS. ELSON:

11 Q. And that is even though there have been
12 many concerns raised about the BMD election
13 security?

14 A. I mean, it's certainly been discussed in
15 meetings in context to -- with rules, but how often,
16 I -- I don't know -- I don't know how often the
17 issue comes up.

18 Q. And when was it discussed in -- as it
19 concerns rules?

20 A. Regard- -- the security of the ballot
21 marking devices? I think there's several rules that
22 touch on security regarding transport and storage of
23 those devices, how they may be programmed, I think
24 that issue would have come up each time we discussed
25 one of those rules.

1 Q. And those rules are passed based on
2 recommendations from the Secretary of State's
3 office?

4 MR. MILLER: Object to form.

5 THE WITNESS: There are recommendations --
6 there are recommendations from the Secretary of
7 State's office but there is also a rules
8 working group that works on the rules prior to
9 being presented to the board.

10 BY MS. ELSON:

11 Q. And that working group consists of
12 State Election Board members?

13 A. Generally two State Election Board members
14 will be in that group as well as local election
15 officials and election officials from the Secretary
16 of State's office.

17 Q. Does the rules working group receive any
18 briefing or information regarding the BMDs when they
19 are drafting rules about election security?

20 A. During my time on the working group, I do
21 not remember any specific briefings outside of those
22 members of the State Election Board staff.

23 Q. And so just to follow-up on that, are you
24 saying that other State Election Board members
25 presented about information?

1 A. I'm saying that the Secretary of State's
2 staff have addressed that issue and made
3 recommendations.

4 Q. Okay. So to your understanding, they
5 don't use any -- they don't gather any information
6 when they are making the recommendations?

7 MR. MILLER: Object to form.

8 THE WITNESS: Who's they? The Secretary
9 of State staff?

10 BY MS. ELSON:

11 Q. Oh, the rules working group.

12 A. The rules working group I think is
13 certainly gathering information from the Secretary
14 of State staff who study these issues and this
15 topic.

16 Q. Okay. Thank you.

17 A. I can't say what State Election Board
18 members gather on their own.

19 Q. Okay. Understood.

20 A. Can we take a break? We're --

21 Q. Oh, of course.

22 A. -- right -- right on about an hour.

23 Q. Sure.

24 A. Okay. Thanks.

25 Q. Do you want to say ten minutes? Is that

1 okay?

2 A. How about five?

3 Q. Five's fine.

4 A. Okay.

5 (Cross-talk.)

6 VIDEOGRAPHER: Sorry. Off record at 2:55.

7 (Off the record.)

8 VIDEOGRAPHER: Back on the record. The
9 time is 3:02.

10 BY MS. ELSON:

11 Q. All right. Are you aware that an expert
12 in this case named Alex Halderman has examined
13 Georgia's voting equipment and issued a report about
14 it?

15 A. I have heard that.

16 Q. What do you know about that report or what
17 have you heard about it?

18 A. I just know that it has been done.

19 Q. Have you read about Dr. Halderman's public
20 reply or his declarations?

21 A. I have not.

22 Q. Have you heard news reports covering
23 Dr. Halderman's work?

24 A. I don't have any knowledge of his work,
25 no.

1 Q. If you were to hear that Dr. Halderman
2 found that Georgia's current election system can be
3 hacked in numerous ways, would that concern you?

4 MR. MILLER: Object to form.

5 THE WITNESS: I don't have any specific
6 knowledge of his report and do not feel like
7 it's appropriate to comment on that.

8 BY MS. ELSON:

9 Q. Would it concern you if a cybersecurity
10 expert were to tell you that they examined Georgia's
11 election system and found that it could be hacked?

12 MR. MILLER: Objection. Calls for
13 speculation.

14 THE WITNESS: I would certainly want to
15 know the circumstances of that and I don't have
16 the circumstances of that.

17 BY MS. ELSON:

18 Q. Has the State Election Board taken any
19 action to learn more information about
20 Dr. Halderman's report?

21 MR. MILLER: Objection. Relevance.

22 THE WITNESS: I have not, no.

23 BY MS. ELSON:

24 Q. Have other State Election Board members,
25 to your understanding?

1 A. I don't know.

2 Q. Would you like to know more information
3 about the vulnerabilities that Dr. Halderman found?

4 MR. MILLER: Object to form.

5 THE WITNESS: I'm sorry. Would I like to
6 know more about it?

7 BY MS. ELSON:

8 Q. Yes.

9 A. It is -- it is good generally for the
10 board to be aware of things regarding the election
11 system that we can effect by changes through rules.
12 If there are rules that we can pass that make better
13 security, I think that is always a good thing.

14 Q. Do you think that having information about
15 security vulnerabilities in the election system
16 would assist the State Election Board in
17 promulgating rules related to security?

18 MR. MILLER: Object to form.

19 THE WITNESS: We're speaking
20 speculatively. I think that would depend on
21 what kind of concerns they're talking about.

22 BY MS. ELSON:

23 Q. Are you aware that plaintiffs in this case
24 have asked the Secretary of State's office attorneys
25 to provide a proposal to allow both the Secretary of

1 State's office and the State Election Board to
2 access some of Dr. Halderman's report?

3 MR. MILLER: Objection. Form and
4 relevance.

5 THE WITNESS: I am not familiar with that,
6 no.

7 BY MS. ELSON:

8 Q. Do you plan on taking any action to learn
9 information about the vulnerabilities we've been
10 discussing?

11 MR. MILLER: Same objection.

12 THE WITNESS: I don't plan on taking any
13 action right now, no.

14 BY MS. ELSON:

15 Q. And why is that?

16 A. I don't have any specific plans at this
17 moment to take any actions.

18 Q. Are you aware that the Secretary of
19 State's office has hired their own experts in this
20 litigation?

21 A. I am aware of that, yes.

22 Q. And are you aware that this election
23 security expert retained by the State testified
24 under oath that he doesn't dispute Dr. Halderman's
25 findings about the vulnerabilities that the

1 equipment can be hacked?

2 MR. MILLER: Object to form and
3 characterization.

4 THE WITNESS: I am not aware of the expert
5 witness' testimony in this case.

6 BY MS. ELSON:

7 Q. Does it concern you to hear that the
8 State's election security expert testified under
9 oath that he does not dispute Dr. Halderman's
10 findings?

11 A. I don't --

12 MR. MILLER: Same objection.

13 THE WITNESS: I don't have any specific
14 knowledge of the testimony and, therefore, I
15 can't, you know, express any opinion about
16 that.

17 BY MS. ELSON:

18 Q. Are you aware that the State has admitted
19 that it has taken no measures to address the
20 failings that Dr. Halderman found with Georgia's
21 voting equipment?

22 MR. MILLER: Same objection.

23 THE WITNESS: I have -- I have no
24 knowledge of that.

25

1 BY MS. ELSON:

2 Q. Does hearing that affect your confidence
3 in Georgia's voting system?

4 MR. MILLER: Same objection.

5 THE WITNESS: I don't have any knowledge
6 of the expert report, so I can't form an
7 opinion on that.

8 BY MS. ELSON:

9 Q. As a State Election Board member, have you
10 ever reached out to a source for assistance or
11 guidance on an issue within that source's specific
12 expertise?

13 MR. MILLER: Object to form.

14 THE WITNESS: I'm not -- I'm -- I -- I
15 mean, that was a very broad question, but I
16 can't think of any specific scenario that is
17 responsive.

18 BY MS. ELSON:

19 Q. So you've never reached out to -- strike
20 that.

21 Some examples would be a cybersecurity
22 expert or an election security expert.

23 Has the sec- -- have you as a -- have you
24 as an SEB member ever reached out to experts such as
25 those?

1 A. I have not.

2 Q. Has the State Election Board ever had a
3 cybersecurity expert examine the BMD election
4 system?

5 MR. MILLER: Objection. Relevance.

6 THE WITNESS: The State Election Board has
7 not. I do not know whether or not the
8 Secretary of State's office has.

9 BY MS. ELSON:

10 Q. Did I understand your earlier testimony to
11 be that you have no knowledge of how the RLA audit
12 works, the risk-limiting audit works?

13 A. I am not an expert on risk-limiting
14 audits, no.

15 Q. I guess I'm asking less about whether
16 you're an expert than I am whether you have
17 knowledge about how such an audit works.

18 Do you have any knowledge of how the RLA
19 works?

20 A. There is a rule that we have passed
21 regarding an RLA that sets some bas- -- basic
22 frameworks, but I do not have that rule memorized.

23 Q. And you testified earlier that you have no
24 knowledge of the technical aspects of the BMDs;
25 correct?

1 A. Correct.

2 Q. So I'm curious about how you promulgated
3 rules about the RLA as a State Election Board member
4 if you didn't have knowledge of how those worked.

5 Is the issue that you had knowledge when
6 you were addressing the rule that you no longer
7 have?

8 MR. MILLER: Object to form.

9 THE WITNESS: Do I need to know the
10 technical details of the ballot marking device
11 to understand that there is a risk -- I don't
12 think I need to know the technical
13 interworkings of a ballot marking device system
14 to know that there is such a thing as a
15 risk-limiting audit.

16 BY MS. ELSON:

17 Q. And I didn't mean to connect those two
18 questions.

19 A. Well, that's what you were doing.

20 Q. I apologize.

21 The question that I meant to ask was how
22 did you promulgate rules about the audits as a
23 State Election Board member if you didn't have
24 knowledge about how those audits work?

25 A. I don't have the specific knowledge

1 regarding the various types of risk-limiting audits.
2 This recommendation came to us through the rules
3 working group, and they formulated those
4 recommendations.

5 Q. Okay. Do you know which
6 State Election Board members are currently on the
7 working group, the rules working group?

8 A. I believe that Sara Ghazal and Matt
9 Mashburn were most recently on the working group.

10 Q. So the rules working group, including
11 those two members of the State Election Board, know
12 the details of the risk-limiting audits?

13 MR. MILLER: Object to form.

14 THE WITNESS: I don't know.

15 BY MS. ELSON:

16 Q. Are you relying on them when -- strike
17 that.

18 When the State Election Board's rules
19 working committee makes a recommendation to you
20 regarding a proposed rule about audits, are you
21 relying on them to make an informed recommendation
22 based on knowledge that they have about audits?

23 A. Yes. I am relying on an informed
24 recommendation from the Secretary of State's staff,
25 as well as the members of the rules working group.

1 Q. Okay. And you mentioned having no
2 knowledge of the technical aspects of the BMDs.

3 Without knowledge of how the BMDs work,
4 how is the -- how is the State Election Board able
5 to promulgate rules about voting with those devices?

6 A. I didn't say that I don't know how the
7 ballot marking devices work, but I don't -- if I did
8 say that, I didn't mean to say that. But I don't
9 have technical expertise regarding all aspects of
10 the ballot marking device.

11 Q. And so it's -- let me know if this
12 mischaracterizes what you said.

13 But it's your understanding that the
14 State Election Board does not promulgate rules
15 regarding the technical aspects of the voting
16 devices?

17 MR. MILLER: Object to form.

18 THE WITNESS: There may be some technical
19 aspects that are addressed regarding -- I'm
20 trying to think of an example. I'm not going
21 to say that there's not anything that -- in the
22 State Election Board rules that would have some
23 bearing on a technical aspect of a ballot
24 marking device.

25

1 BY MS. ELSON:

2 Q. And if that were the case, and you've
3 stated that you lack technical knowledge about the
4 BMDs, is your ability to pass rules including
5 technical aspects made possible in the same way that
6 your ability to pass rules about audits is?

7 MR. MILLER: Object to form. Relevance.

8 THE WITNESS: That was a pretty complex
9 question, compound question.

10 The State Election Board hears from a
11 number of -- the rules working group, experts
12 in the Secretary of State's office, as well as
13 members of the public to make informed decision
14 when they're passing rules.

15 BY MS. ELSON:

16 Q. Is it your understanding that someone on
17 the State Election Board understands technical
18 aspects of the BMDs?

19 A. I cannot speak to the knowledge of other
20 State Election Board members.

21 Q. Are BMDs connected to the Internet to
22 receive updates?

23 A. It is my understanding that BMDs are
24 generally not connected to the Internet.

25 Q. Would it concern you if BMDs were

1 connected to the Internet?

2 MR. MILLER: Objection. Calls for
3 speculation.

4 THE WITNESS: I think that everything
5 regarding BMDs should be conducted in the most
6 safe and secure manner whatsoever.

7 BY MS. ELSON:

8 Q. Would you want BMDs to be connected to the
9 Internet?

10 MR. MILLER: Same objection.

11 THE WITNESS: I don't want BMDs to be
12 connected to the Internet unless it is
13 necessary for them to operate.

14 BY MS. ELSON:

15 Q. Okay. Does any of the computer equipment
16 used in Georgia's current election system utilize
17 removable media such as memory cards or USB sticks?

18 MR. MILLER: Object to form.

19 THE WITNESS: I believe it does, but I
20 don't have technical knowledge of the entire
21 election system.

22 BY MS. ELSON:

23 Q. You receive -- you testified earlier that
24 you receive recommendations regarding rules from the
25 State Election Board rules working group?

1 A. Yes.

2 Q. Is it your understanding that the rules
3 working group has technical knowledge about the BMD
4 system?

5 MR. MILLER: Objection. Asked and
6 answered.

7 THE WITNESS: I don't know what the
8 knowledge is of other members.

9 BY MS. ELSON:

10 Q. Have you discussed with the
11 State Election Board whether malware can be
12 introduced to BMDs through removable media?

13 A. I don't recall any specific questions -- I
14 mean, any specific discussions.

15 Q. Was any part of the DRE system transferred
16 to the BMD system?

17 MR. MILLER: Object to form.

18 THE WITNESS: Not that I'm aware of.

19 BY MS. ELSON:

20 Q. Would you want to know that information?

21 MR. MILLER: Objection. Relevance.

22 THE WITNESS: Only if it were necessary
23 for me to have that information.

24 BY MS. ELSON:

25 Q. In what situation would it be necessary

1 for you to have that information?

2 MR. MILLER: Same objection.

3 THE WITNESS: I can't -- I can't
4 speculate.

5 BY MS. ELSON:

6 Q. Okay. Would you see any issue with
7 reusing memory cards or other components from the
8 DRE system in the current BMD system?

9 A. I don't have any technical knowledge
10 regarding the reuse of any removable media.

11 Q. So you wouldn't have any concerns if that
12 were the case?

13 A. I don't have any knowledge as to whether
14 or not there should be concern.

15 Q. Okay. All right. I'm going to publish a
16 document. Let me stamp it and then I will introduce
17 it. If you can refresh your Exhibit Share, let me
18 know if you are able to see Exhibit No. 1.

19 (Plaintiffs' Exhibit 1 was marked for
20 identification.)

21 THE WITNESS: I can see it.

22 BY MS. ELSON:

23 Q. You said you can see it? Sorry.

24 A. Yes.

25 Q. Okay. And if you can see the text at the

1 top of this document states that these are minutes
2 from a State Election Board on --

3 A. Yes.

4 Q. -- February 28?

5 A. Yes.

6 Q. And do you recall attending this specific
7 meeting?

8 A. I don't remember the specific meeting, no.

9 Q. But you don't have any indication that you
10 wouldn't be, given that your name's there?

11 A. I can't -- I'm sorry. I haven't scrolled
12 down to see what the meeting was about.

13 Q. Oh, yeah. You can take time to review the
14 document if you'd like.

15 A. I don't remember this specific meeting,
16 but I have no reason to believe I was not there.

17 Q. Okay. If you scroll to page 2 --

18 A. Yes.

19 Q. -- if you look to Proposed Rule 5, do you
20 see where it says that preservation of memory cards
21 was discussed?

22 A. Yes.

23 Q. What function do memory cards serve in
24 Georgia's current election system?

25 A. I would like to look at that proposed rule

1 to be able to answer that question, but I believe
2 that there are memory cards -- I can't tell you what
3 the specific role of memory cards are at the moment.

4 Q. Okay. What is your understanding for the
5 policies that Georgia has in place to ensure a
6 secure chain of custody for memory cards?

7 MR. MILLER: Object to form.

8 THE WITNESS: I don't have personal
9 knowledge of that.

10 BY MS. ELSON:

11 Q. Has the State Election Board discussed
12 memory cards at other times besides this meeting?

13 A. I don't know. I can't recall any specific
14 discussions.

15 Q. All right. If you can scroll to page 3,
16 we'll be looking at Roman numeral V.

17 A. Okay.

18 Q. And near the middle of this page, do you
19 see where it states "Logic and Accuracy Testing"?

20 A. Are you talking about just the reference
21 to the rule?

22 Q. Yes.

23 A. Yes.

24 Q. Do you know what "Logic and Accuracy"
25 testing refers to?

1 A. Generally speaking, yes. It's to make
2 sure that the system is working appropriately and
3 correctly.

4 Q. And just for clarity, by "system," are you
5 referring to the various components of Georgia's
6 election system such as BMDs and scanners?

7 A. Yes.

8 Q. When there is a rule about logic and
9 accuracy testing in front of the
10 State Election Board, what type of information is
11 provided to you in order for you to make an informed
12 decision about whether or not this is a good rule?

13 MR. MILLER: Object to form.

14 THE WITNESS: There is discussion, just
15 like any other rule, recommendations made by
16 Secretary of State staff, county election
17 officials who actually do this, and members of
18 the public are invited to give input.

19 BY MS. ELSON:

20 Q. Within that world that you described, are
21 you given any detailed information about how logic
22 and accuracy testing affects the voting machines?

23 MR. MILLER: Object to form.

24 THE WITNESS: I don't know what you're
25 referring to.

1 BY MS. ELSON:

2 Q. Okay. We can strike that question.

3 A. Can I -- can I look back at you or am I --

4 are we going to need to look at this document?

5 Q. Oh, whatever your preference is.

6 A. Well, I mean, if you're going to keep
7 referring to it, I'll keep it up.

8 Q. I do have a couple more questions about
9 this document.

10 A. Okay. It's just strange to talk to this
11 document. Go ahead. I like to see you.

12 Q. I understand.

13 So on the same page at the end of the list
14 where "Logic and Accuracy" testing is listed, do you
15 see where it states "Use of emergency paper ballots
16 when voting machines are inaccessible"?

17 A. Yes.

18 Q. Under what circumstances would voting
19 machines be inaccessible?

20 MR. MILLER: Objection. Calls for a legal
21 conclusion.

22 THE WITNESS: Like, for example, if the
23 power was completely out at a voting location.

24 BY MS. ELSON:

25 Q. Are there any other circumstances you can

1 think of?

2 A. I'm sure there are other circumstances,
3 but that's the example immediately comes to mind.

4 Q. Have you ever received public comment from
5 counties about not having enough emergency paper
6 ballots?

7 MR. MILLER: Objection. Relevance.

8 THE WITNESS: I don't know. Not -- not
9 specific -- specifically to my recollection.

10 BY MS. ELSON:

11 Q. Have you ever received complaints from
12 voters about their polling places not having enough
13 emergency ballots?

14 MR. MILLER: Same objection.

15 THE WITNESS: I don't specifically recall
16 any.

17 BY MS. ELSON:

18 Q. Okay. And we can exit out of this
19 exhibit.

20 Does the State Election Board have any
21 part in deciding how recounts are conducted in
22 Georgia?

23 A. Hold on a second. I need to figure out
24 how to exit. I don't know.

25 MR. MILLER: If you click on the Zoom at

1 the bottom of your screen there.

2 THE WITNESS: Oh, got it.

3 MR. MILLER: Yeah.

4 THE WITNESS: I'm sorry. Go ahead.

5 BY MS. ELSON:

6 Q. Hello again.

7 A. Hi.

8 Q. Does the State Election Board have any
9 part in deciding how recounts are done?

10 A. I can't recall that they do, but there is
11 a State Election Board rule on recounts.

12 Q. Does that rule, to your understanding,
13 specify how the recount should be conducted?

14 A. I can't recall that off the top of my
15 head.

16 Q. Does the State Election Board have any
17 role in deciding whether in a particular
18 circumstance a recount should occur?

19 A. I believe that when a recount should occur
20 is controlled by law, but it may also be addressed
21 in the rules.

22 Q. Do audits happen before every recount in
23 Georgia?

24 MR. MILLER: Object to form.

25 THE WITNESS: Do audits happen before

1 every recount? Audits of what?

2 BY MS. ELSON:

3 Q. The RLA audits you testified about
4 earlier.

5 A. Do they happen before every recount?

6 Q. Yes.

7 A. I don't know.

8 Q. You don't know.

9 Do you think they should happen before
10 every recount?

11 A. I don't --

12 MR. MILLER: Objection. Form.

13 THE WITNESS: I don't have an opinion.

14 BY MS. ELSON:

15 Q. We mentioned a bit about how certain
16 portions of the State Election Board don't have
17 technical expertise about the components of
18 Georgia's election system.

19 Would you want to receive more information
20 about the technical components of the current
21 system?

22 MR. MILLER: Object to form. Relevance.

23 THE WITNESS: It is certainly within the
24 power of the State Election Board to request
25 more technical knowledge.

1 BY MS. ELSON:

2 Q. As a State Election Board member, would
3 you like to receive more detailed information than
4 you have so far?

5 MR. MILLER: Objection. Asked and
6 answered.

7 THE WITNESS: It is always good to be
8 informed. I'm not going to say that I do not
9 want any more information regarding any area of
10 voting.

11 BY MS. ELSON:

12 Q. And a similar question.

13 Would you also be interested in -- or
14 would you also appreciate being more informed about
15 the security aspects of the current election system?

16 MR. MILLER: Object to form.

17 THE WITNESS: I think it is always good to
18 be informed.

19 BY MS. ELSON:

20 Q. Are you familiar with the company
21 Fortalice?

22 A. I have heard that name, but no.

23 Q. So you weren't aware that the Secretary of
24 State's office hired Fortalice to assess its IT
25 systems and security vulnerabilities?

1 MR. MILLER: Object to form. Lack of
2 foundation.

3 THE WITNESS: I am not familiar with that,
4 no. I do recall the name, but I have no
5 familiarity with that.

6 BY MS. ELSON:

7 Q. Okay. Is ballot secrecy important to you
8 as a State Election Board member?

9 A. Of course.

10 MR. MILLER: Object to form.

11 THE WITNESS: Of course.

12 BY MS. ELSON:

13 Q. Would it concern you if someone could see
14 who you were voting for while you were voting?

15 MR. MILLER: Same objection.

16 THE WITNESS: Yes.

17 BY MS. ELSON:

18 Q. Have you ever heard voters complain that
19 the BMD screens are too large?

20 A. I have.

21 Q. Did those complaints concern you?

22 A. I think that there are a lot of opinions
23 about the BMD system, but there are -- I know the
24 Secretary of State's office put out specific
25 instructions on how to display those BMDs so that

1 the secrecy of the ballot was preserved.

2 Q. Have you ever received complaints or
3 public comment from counties regarding their
4 inability to follow the Secretary of State's
5 guidance?

6 MR. MILLER: Object to form.

7 THE WITNESS: I don't recall any specific
8 examples of that.

9 BY MS. ELSON:

10 Q. And are -- is the guidance you're
11 referring to referring to the space and direction in
12 which the -- each machine is set up in a polling
13 place?

14 A. I believe that it addresses proper setup
15 so that a secrecy of the ballot can be maintained.

16 Q. Is it your understanding that the counties
17 in Georgia are able to comply with that guidance?

18 A. I have no reason to believe they are not
19 able to comply.

20 Q. Would it concern you if you heard that
21 some counties were not able to arrange the BMDs in
22 their polling places such as that ballot secrecy was
23 preserved for every voter?

24 A. I think that they need to come up with a
25 way to use their systems in a way that preserves the

1 secrecy of the ballot. Whether or not they use the
2 specific guidance presented by the Secretary of
3 State's office or find an alternative -- alternative
4 arrangement.

5 Q. And what would some alternative
6 arrangements be?

7 MR. MILLER: Objection. Calls for
8 speculation.

9 THE WITNESS: I can't think of any
10 specific examples off the top of my head. I
11 have not been involved in the arrangement of
12 voting machines before.

13 BY MS. ELSON:

14 Q. Have you discussed ballot secrecy with
15 other State Election Board members?

16 A. I am sure that this issue has come up in
17 the context of State Election Board meetings.

18 Q. Can you recall what you discussed?

19 A. The need to maintain the secrecy of the
20 ballot and that has been discussed.

21 Q. Do you know how poll workers are trained
22 in Georgia?

23 MR. MILLER: Objection. Relevance.

24 THE WITNESS: I know that poll worker
25 training is required, but I don't have specific

1 knowledge regarding that training. It's done
2 at the local level, is my understanding.

3 BY MS. ELSON:

4 Q. So the -- just to confirm, the
5 State Election Board isn't involved at all in
6 deciding how poll workers should be trained?

7 MR. MILLER: Same objection.

8 THE WITNESS: I don't remember an example
9 where the State Election Board was involved in
10 poll worker training.

11 BY MS. ELSON:

12 Q. Okay.

13 A. There may very well be
14 State Election Board rules that address training.

15 Q. Are poll workers in Georgia trained to
16 operate BMDs?

17 MR. MILLER: Objection. Lack of
18 foundation. Relevance.

19 THE WITNESS: I have never participated in
20 poll worker training, so I don't know what the
21 specifics of their training is.

22 BY MS. ELSON:

23 Q. Have you heard any complaints from voters
24 that their poll worker was unable to help them
25 because the poll worker didn't know how to deal with

1 the machine?

2 A. I don't remember any specific complaint
3 regarding that.

4 Q. Have you heard any complaints from voters
5 about the BMD machines not working?

6 A. I -- I don't recall any specific exam- --
7 I mean, a specific complaint regarding a specific
8 instant about a marking device not working, no.

9 Q. Have voters complained to you in general
10 about the ballot marking devices?

11 A. We know that voters have complained about
12 the use of ballot marking devices. I think that
13 we've already discussed this.

14 Q. In your experience, what happens to
15 machines at polling places that don't appear to be
16 working?

17 MR. MILLER: Object to form.

18 THE WITNESS: I don't know what you mean
19 by "don't appear to be working," but if they go
20 through logic and accuracy testing, if there is
21 a problem, it's my understanding that they are
22 taken out of commission and not used for voting
23 until they are working properly.

24 BY MS. ELSON:

25 Q. Is it important to you as a

1 State Election Board that every county in Georgia
2 has sufficient election equipment for all voters who
3 want to to cast a ballot?

4 MR. MILLER: Objection. Relevance.

5 THE WITNESS: I think that what is
6 sufficient is a subjective question, but, yes,
7 it is important that they all have a number of
8 voting machines so that every voter can vote
9 without waiting in extraordinarily long lines.

10 BY MS. ELSON:

11 Q. Have voters or counties made public
12 comm- -- comment about not having had enough
13 equipment in past elections?

14 MR. MILLER: Objection. Relevance.

15 THE WITNESS: I don't recall any specific
16 examples.

17 BY MS. ELSON:

18 Q. I'm going to introduce one more document.
19 Bear with me for one moment.

20 (Plaintiffs' Exhibit 2 was marked for
21 identification.)

22 BY MS. ELSON:

23 Q. All right. If you wouldn't mind
24 refreshing your screen and confirming with me once
25 you're able to see Exhibit No. 2, I believe. Yes.

1 A. I see it.

2 Q. Okay. And the first page of this document
3 states that this is a transcript from the
4 State Election Board hearing on January 22, 2020;
5 correct?

6 A. Yes.

7 Q. And if you scroll to page 2, you can see
8 that your name, Rebecca Sullivan, is listed as being
9 present; correct?

10 A. Correct.

11 Q. Do you recall being present at this
12 meeting?

13 A. I have to look at the document. I don't
14 recall what this meeting is. Yeah, I don't recall
15 this specific meeting, but I have no reason to
16 believe I was not there.

17 Q. Okay. I'm going to apologize in advance
18 for the clicking required, but if you could scroll
19 to page 7, please, and just let me know when you're
20 there.

21 A. Sorry. I'm not familiar with this
22 computer and how it all works. Okay. I'm on
23 page 7.

24 Q. Okay. No apology necessary.

25 At the bottom of page 7, do you see where

1 Mr. Woodall's public comment begins?

2 A. Yes.

3 Q. And he states that he's the president of
4 the Georgia NAACP --

5 A. Yes.

6 Q. -- and a resident of Atlanta?

7 If you could scroll to the next page,
8 page 8, in the middle of the middle paragraph on
9 page 8, do you see where Mr. Woodall comments that

10 " [REDACTED]

11 [REDACTED] [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]"?

15 A. Yes, I do see that.

16 Q. Do you have any reason to believe that
17 Mr. Woodall was not telling the truth here?

18 MR. MILLER: Objection. Relevance.

19 THE WITNESS: I don't -- I don't know -- I
20 mean, I don't have any reason to believe that
21 he was lying. I don't know -- have any reason
22 to believe he has personal information
23 regarding specific county receipt of voting
24 machines.

25

1 BY MS. ELSON:

2 Q. Were you concerned when you heard this
3 comment?

4 MR. MILLER: Objection. Relevance.

5 THE WITNESS: I don't remember this
6 comment being made.

7 BY MS. ELSON:

8 Q. Did the State Election Board take any
9 action in response to this comment that " [REDACTED]

10 [REDACTED]

11 [REDACTED] "?

12 MR. MILLER: Objection to form and
13 relevance.

14 THE WITNESS: I do not recall any specific
15 action. I do know that there was a intensive
16 effort by the Secretary of State's office to
17 make sure that all counties got the machines
18 that they needed in time and had the training
19 necessary. And this is -- would be a part of
20 the initial rollout of the BMDs, I think.

21 BY MS. ELSON:

22 Q. Okay. Has the Secretary of State's office
23 conducted -- taken any action since the BMDs were
24 initially rolled out to ensure adequate information
25 and training necessary?

1 MR. MILLER: Objection. Relevance. Lack
2 of foundation.

3 THE WITNESS: I don't know what the
4 Secretary of State's office has done
5 specifically with regard to equipment since the
6 initial rollout.

7 BY MS. ELSON:

8 Q. Okay. All right. We can put that exhibit
9 aside.

10 We talked a bit about ballot secrecy
11 earlier.

12 Is the State Election Board initiating any
13 proposals for the general assembly to improve ballot
14 secrecy?

15 MR. MILLER: Objection to form.

16 THE WITNESS: Not that I'm aware of.

17 BY MS. ELSON:

18 Q. Do you plan to initiate any proposals for
19 the general assembly to improve ballot secrecy in
20 the future?

21 MR. MILLER: Same objection.

22 THE WITNESS: I don't have any immediate
23 plans to make a proposal to the Georgia General
24 Assembly regarding the elections.

25

1 BY MS. ELSON:

2 Q. Is the State Election Board initiating any
3 proposals for the general assembly to improve
4 election security of Georgia's current election
5 system?

6 MR. MILLER: Objection to form and
7 relevance.

8 THE WITNESS: I think I just answered the
9 question that we -- I am not proposing --
10 preparing to propose any recommendations to the
11 general assembly for the next legislative
12 session regarding any aspect of elections. I
13 cannot speak on behalf of the other members of
14 the State Election Board or the Secretary of
15 State's office.

16 BY MS. ELSON:

17 Q. As a member of the State Election Board,
18 do you consider it your responsibility to ensure
19 that the election system is run in a way that
20 ensures elections are legal and secure?

21 MR. MILLER: Object to form and relevance.

22 THE WITNESS: Elections are actually run
23 at the local level by election superintendents,
24 and I think there's a shared responsibility by
25 everyone involved in elections to make sure

1 that elections are as safe as they can be in
2 the state of Georgia.

3 BY MS. ELSION:

4 Q. So it's your testimony that both local
5 precincts and the State Election Board had the
6 responsibility to ensure --

7 A. I would say --

8 MR. MILLER: Objection. Misstates.

9 THE WITNESS: I would say that each party
10 that had -- that plays a role in elections has
11 their own responsibilities, specific -- has
12 that responsibility -- I'm having a hard time
13 articulating what I'm trying to say here.

14 But within their own role, they have a job
15 to make sure that elections are safe and secure
16 to the extent it pertains to their role.

17 MS. ELSION: Do you want to take a
18 five-minute break? I think those are all the
19 questions I have for you but --

20 THE WITNESS: Sure.

21 MS. ELSION: -- we can break for -- maybe
22 until 3:46 and then come back.

23 THE WITNESS: Okay.

24 VIDEOGRAPHER: Okay. Off record at 3:42.
25 (Off the record.)

1 VIDEOGRAPHER: We're back on the record at
2 3:48.

3 MS. ELSON: So those are all the questions
4 I have for you, Ms. Sullivan, and I understand
5 your counsel doesn't have any more questions
6 for you either.

7 MR. MILLER: We do not. We will just go
8 ahead and reserve Ms. Sullivan's right to
9 review and sign the transcript, but other than
10 that, we're -- we're all set.

11 VIDEOGRAPHER: Okay. If nothing further,
12 then we'll conclude the deposition. The time
13 is 3:48 and we're off the record.

14 (Deposition concluded at 3:48 p.m.)

15 (Pursuant to Rule 30(e) of the Federal
16 Rules of Civil Procedure and/or O.C.G.A.
17 9-11-30(e), signature of the witness has been
18 reserved.)

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1 C E R T I F I C A T E
2
3

4 STATE OF GEORGIA:
5
6

7 COUNTY OF FULTON:
8
9

10 I hereby certify that the foregoing transcript was
11 taken down, as stated in the caption, and the
12 questions and answers thereto were reduced to
13 typewriting under my direction; that the foregoing
14 pages represent a true, complete, and correct
15 transcript of the evidence given upon said hearing,
16 and I further certify that I am not of kin or
17 counsel to the parties in the case; am not in the
18 regular employ of counsel for any of said parties;
19 nor am I in anywise interested in the result of said
20 case.
21
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23
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25 
LEE ANN BARNES, CCR B-1852, RPR, CRR, CRC

COURT REPORTER DISCLOSURE

Pursuant to Article 10.B. of the Rules and Regulations of the Board of Court Reporting of the Judicial Council of Georgia which states: "Each court reporter shall tender a disclosure form at the time of the taking of the deposition stating the arrangements made for the reporting services of the certified court reporter, by the certified court reporter, the court reporter's employer, or the referral source for the deposition, with any party to the litigation, counsel to the parties or other entity. Such form shall be attached to the deposition transcript," I make the following disclosure:

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Lee Ann Barnes

LEE ANN BARNES, CCR B-1852B, RPR, CRR, CRC

1 Carey Miller, Esqurie
2 carey.miller@robbinsfirm.com

3 November 19, 2021

4 RE: Curling, Donna v. Raffensperger, Brad

5 11/5/2021, Rebecca Sullivan (#4880381)

6 The above-referenced transcript is available for
7 review.

8 Within the applicable timeframe, the witness should
9 read the testimony to verify its accuracy. If there are
10 any changes, the witness should note those with the
11 reason, on the attached Errata Sheet.

12 The witness should sign the Acknowledgment of
13 Deponent and Errata and return to the deposing attorney.
14 Copies should be sent to all counsel, and to Veritext at
15 erratas-cs@veritext.com

16

17 Return completed errata within 30 days from
18 receipt of transcript.

19 If the witness fails to do so within the time
20 allotted, the transcript may be used as if signed.

21

22 Yours,

23 Veritext Legal Solutions

24

25

1 Curling, Donna v. Raffensperger, Brad

2 Rebecca Sullivan (#4880381)

E R R A T A S H E E T

4 PAGE LINE CHANGE

6 REASON

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8 REASON _____

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21 REASON _____

23 _____

24 Rebecca Sullivan Date

25

1 Curling, Donna v. Raffensperger, Brad
2 Rebecca Sullivan (#4880381)

ACKNOWLEDGEMENT OF DEPONENT

4 I, Rebecca Sullivan, do hereby declare that I
5 have read the foregoing transcript, I have made any
6 corrections, additions, or changes I deemed necessary as
7 noted above to be appended hereto, and that the same is
8 a true, correct and complete transcript of the testimony
9 given by me.

10

11

12 Rebecca Sullivan Date

13 *If notary is required

14

SUBSCRIBED AND SWORN TO BEFORE ME THIS

15

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NOTARY PUBLIC